

Hon. William Giacomo
Westchester County Courthouse
111 Dr. Martin Luther King Jr. Blvd, Courtroom 102
White Plains, New York 10601

Individual Part Rules

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must. **GENERAL RULES**

A. **Appearances**: Counsel who appear before the Court must be familiar with the case and be fully authorized to enter into agreements on behalf of their clients. Counsel shall appear ready to discuss all matters, including settlement, at any scheduled appearance. Counsel and self-represented parties must be on time for all scheduled appearances.

B. **Settlements and Discontinuances**: If an action or motion is settled, discontinued, disposed or withdrawn in any manner, counsel shall immediately inform the Court by letter or email and must file the letter or email on NYSEF together with the appropriate stipulation of settlement and/or discontinuance on the New York State Courts E-Filing system (hereinafter "NYSCEF") within thirty (30) days.

C. **Conduct of Parties and Counsel**: All parties and counsel must conduct themselves appropriately in all proceedings and in their communications with each other and the Court. Personal attacks upon parties or counsel shall not be tolerated and may result in the imposition of sanctions as determined by the Court.

D. **Communications**: *Ex-parte* communications are strictly prohibited except upon consent of all counsel, or with respect to scheduling matters or the presentation of orders to show cause for signature. In addition, counsel must inform his/her client that under no circumstances shall any member of the Court's staff engage in any conversation or exchange any communication with a represented party. Self-represented parties must not contact the Court's Secretary or Law Clerk and must direct all communications through the Part Clerk.

II. CONFERENCES

A. Preliminary Conferences: Preliminary Conferences are handled by the Preliminary Conference Part PreliminaryConferenceWestchester@nycourts.gov

B. Compliance Conferences: Compliance conferences shall be conducted by the Principal Law Clerk or the assigned court attorney referee who shall monitor the progress of discovery to completion and ensure that discovery obligations and deadlines are enforced (and, where appropriate, adjusted) on a consistent basis.

Requests for modifications to discovery schedules shall be addressed to the law clerk or court attorney referee at the conference. Applications for extensions of a discovery deadline shall be made as soon as practicable and prior to the expiration of such deadline (22 NYCRR 202.20-e). Inquiries submitted via NYSCEF or by email to the IAS Part clerks are restricted to scheduling matters and routine submissions only. The IAS Parts shall not entertain requests to extend court ordered discovery deadlines or respond to discovery disputes submitted via e-mail or NYSCEF.

Counsel are cautioned to be prepared to discuss discovery issues, and if there is a discovery dispute, counsel must be prepared to argue their positions.

Adjournments of compliance conferences shall be granted only upon a showing of good cause

(22 NYCRR 202.10). While a party may upload to NYSCEF a request for an adjournment by selecting NYSCEF document type "Correspondence (Request for Adjournment)," the party must also e-mail the adjournment request to the Part clerk of the assigned IAS Justice on notice to all other parties. The request for an adjournment shall be made at least two (2) business days before the scheduled conference and shall include two (2) proposed alternative dates for rescheduling the conference, which dates shall be no later than one hundred twenty (120) days prior to the last day of discovery set forth in the preliminary conference order. Unless the parties receive confirmation from the IAS Part clerk that a conference has been rescheduled, the parties shall appear for the conference as originally scheduled.

The parties are cautioned that any adjournment of the compliance conference will not excuse a failure to provide discovery or failure to adhere to a preliminary conference order or compliance conference order and that discovery shall proceed during the period of any adjournment (22 NYCRR 202. 10).

C. Note of Issue: Once discovery is complete or has been deemed waived, a Trial Readiness Order will be issued pursuant to which plaintiff will be ordered to serve and file via NYSCEF a Note of Issue and Certificate of Readiness within twenty (20) days. If plaintiff does not file the Note of Issue timely, the Court will sua sponte issue a written demand pursuant to CPLR 3216(b)(3).

D. Settlement Conferences: A settlement conference shall be scheduled approximately ninety (90) days following the filing of the Note of Issue. . The parties may jointly request that the post Note of Issue settlement conference be advanced in the event no Summary Judgment motion will be made, by emailing the Part Clerk.

At least two weeks prior to the scheduled settlement conference, the parties shall submit a settlement conference form and accompanying documents via NYSCEF.

The settlement conference form is attached as Exhibit B.

III. MOTION PRACTICE RULES

A. E-Filing Rules and Protocol: All parties should familiarize themselves with the statewide e-filing rules - Uniform Rules §§ 202.5-b and 202.5-bb available at www.nycourts.gov/efile and the Westchester Supreme Court Civil Case Management Rules. General questions about e-filing may be directed to the E-Filing Resource Center at (646) 386-3033 or efile@nycourts.gov. Specific questions about local e-filing procedures may be directed to the Civil Calendar Office at (914) 824-5300.

All cases that are subject to mandatory electronic filing must be filed electronically via NYSCEF. In an e-filed case, any submission to the Court, including a proposed order, proposed judgment or letter, must be filed electronically via NYSCEF. Counsel and self-represented parties are expected to keep their contact information updated in NYSCEF.

Counsel should refer to E-Courts to determine if an appearance is required. Any questions about scheduling appearances on the motion, if any, or adjourning appearances must be directed to the Part Clerk.

B. Motion Calendars and Appearances: All motions or proceedings brought on by Notice of Motion or Notice of Petition must be made returnable before the Court on any Monday the Court is in session at 9:30 a.m. Personal appearances are not required on the return date. Papers not filed on NYSCEF by noon on the return date may not, in the Court's discretion, be considered.

Unless otherwise advised by the Court, all motions are by submission only. A request for oral argument may be made on the first page of the Notice of Motion, Order to Show Cause or answering papers. The Court will determine whether oral argument is appropriate, and counsel will be notified.

A request to appear before the Court on the return date should be e-mailed to the Part Clerk and if granted, a Microsoft Teams link will be sent to all parties. At the present time, all appearances will be virtual. If a party desires to appear in person, the request must be e-mailed to the Park Clerk. The Court will determine whether an in-person appearance is appropriate, and counsel will be notified.

The parties MUST advise the Court if a case settles while a motion is pending. Failure to notify the Court of a settlement while a motion is pending will result in the imposition of sanctions.

C. Adjournments: Any party seeking an adjournment must attempt to obtain consent from all other parties. A motion may be adjourned on consent no more than three (3) times and for a maximum of 60 days. If all parties consent to an adjournment, a stipulation signed by all parties must be promptly uploaded to NYSCEF. Any request for an adjournment that exceeds 60 days (Rule 202.8(e)(1) of the Uniform Rules for the Trial Courts) must be made by letter to the Court and uploaded to NYSCEF.

If consent was not obtained from all parties, on or before the return date a party seeking an adjournment must make such application in writing explaining the need for the adjournment and upload the application to NYSCEF. An application for an adjournment

that is not properly supported will not be entertained, and the Part Clerk will mark the motion submitted.

Any request for an adjournment must be made in writing at least two (2) business days prior to the return date, on notice to all parties. In no event shall an adjournment be granted after the time to move or submit opposition or reply papers has expired.

It is incumbent upon counsel to ensure that any request for an adjournment of the return date of a motion has been received and approved within the requisite time period. Unless the Part Clerk, the Court's Secretary or the Court's Law Clerk has conveyed the Court's approval of an adjournment, no motion is considered to have been adjourned, including an adjournment on consent.

D. Orders to Show Cause and Requests for Temporary Relief: An Order to Show Cause submitted for signature must be uploaded to NYSCEF or presented to the office of the calendar clerk, after the payment of any required fee at the County Clerk's Office.

If an Order to Show Cause seeks temporary injunctive relief, counsel for the moving party or a self-represented moving party must demonstrate compliance with the notice requirements of Section 202.7(f) of the Uniform Rules for the Trial Courts. A conference on the request for a Temporary Restraining Order, if required, will be conducted by the Court at a date and time set by the Court. Generally, an Order to Show Cause filed via NYSCEF is reviewed by the Court the business day after filing. If a submission requires more immediate attention, please contact the Law Clerk or Secretary after the Order to Show Cause is filed.

If the Court signs an Order to Show Cause, a copy of it will be uploaded to NYSCEF. If it is not an e-file case or the moving party has not opted into NYSCEF, the Court will email the signed Order to Show Cause to the moving party. A briefing schedule will be provided on the signed Order to Show Cause. No cross motion will be accepted absent prior permission of the Court or as specified in the Order to Show Cause. If appearances are required on the return date of the motion, the Court shall so indicate in the signed Order to Show Cause. Otherwise, no appearance is required, and no oral argument will be heard on the return date of the motion.

E. Motions for Summary Judgment: The deadline for any summary judgment motions as set forth in the Trial Readiness Order requires that any motion for summary judgment by any party must be made within sixty (60) days following the filing of the Note of Issue. Opposing papers must be served and filed via NYSCEF within thirty (30) days of service and filing via NYSCEF of motion papers, and reply papers, if any, must be served and filed via NYSCEF within ten (10) days following service of any opposition papers.

Counsel are cautioned that untimely motions cannot be made timely by denominating such as cross-motions. The failure of a party to serve and file a motion or cross-motion within the 60-day time period pursuant to these Rules and the Trial Readiness Order shall result in the denial of the untimely motion or cross-motion.

F. Communications Regarding Motions: All communications regarding motions for Summary Judgment, including requests for adjournments and questions concerning the status of motions, must be directed to the Part Clerk.

G. Sur-Reply and Post-Submission Papers: Absent advance express permission from the Court, sur-reply papers and motion practice by correspondence are not permitted.

H. Length of Papers: Absent advance express permission from the Court, which will be granted only upon a showing of good cause, affidavits, affirmations, briefs and memoranda of law shall be limited to 7,000 words each pursuant to Rule 202.8-b of the Uniform Rules for the Trial Courts and contain a certificate of compliance. Reply affidavits, affirmations, and memoranda shall be limited to 4,200 words each and contain a certificate of compliance. Papers submitted to the Court in violation of this rule may not be considered by the Court in deciding the motion.

I. Working Copies: Working copies are not required unless otherwise directed.

TRIAL PRACTICE RULES

A. Trial Preparation: Prior to the commencement of a hearing or trial, counsel and any self-represented party must ascertain the availability of all witnesses and subpoenaed documents.

B. Interpreters and Special Services: Upon reporting to the Court for a hearing or trial, counsel and any self-represented party must immediately advise the Part Clerk if the services of a foreign language interpreter are required for any party or witness or if any special services are required for any party or witness who is hearing-impaired or who has any other disability. Similarly, the Part Clerk must be immediately informed if there is a need for a television, monitor or any other courtroom aid.

C. Pleadings and Submissions Due Immediately Upon Appearance: Immediately upon being assigned to this Court for a hearing or trial, counsel for each party, including the Law Guardian, if any, and any self-represented party must report to the Part Clerk in Courtroom 102, or in his/her absence, the Law Clerk. Counsel or the self-represented party will be provided with a form to complete for the Court and shall submit the following:

1. A statement of the estimated length of the trial.
2. The party who filed the note of issue must submit to the Court copies of all pleadings marked as required by CPLR 4012 and a copy of the bill of particulars, if any.
3. A list of all witnesses who may be called at trial, including any known, potential rebuttal witnesses.
4. A list of all exhibits the party expects to use at trial, indicating whether such exhibits are stipulated for admission into evidence or are marked only for identification.
5. A written stipulation governing all facts that are not in dispute.
6. In all matrimonial actions, an updated net worth statement and a statement of proposed disposition.
7. A copy of any statutory provisions in effect at the time the cause of action arose,

upon which any party to the action relies.

8. All expert witness reports relevant to the issues.
9. All reports, transcripts of examinations before trial and written statements which may be used either to refresh a witness' recollection or for cross-examination.

D. Marking of Exhibits: Counsel for all parties shall consult prior to trial and shall in good faith attempt to agree upon the exhibits that will be offered into evidence without objection. Counsel and any self-represented party must meet with the assigned Court Reporter to pre-mark all exhibits for identification. Any exhibits whose admission is agreed to by the parties must be pre-marked for admission, subject to Court approval. All exhibits not consented to shall be marked for identification only.

E. Conference: Immediately prior to the commencement of a hearing or trial, the Court will conduct a brief conference with all counsel to discuss preliminary matters. At this conference, counsel and any self-represented party must alert the Court to any anticipated motions *in limine* or evidentiary objections which will be made during the hearing and/or trial and must provide the Court with a copy of all prior decisions and orders which may be relevant to any applications *in limine* and/or objections.

F. Copies of Transcripts: If any part of a transcript of an examination before trial will be read as evidence-in-chief, the proponent of the transcript must provide a complete copy of it to the Court and all other counsel and/or self-represented parties, well in advance of the time that it shall be read, including citations to the page and line numbers for all portions to be read, so that all objections may be addressed by the Court prior to the proposed reading.

G. Copies of Exhibits: Upon the admission of an exhibit at a hearing or trial, the proponent of the exhibit must provide a complete copy to the Court.

H. Addressing the Court: Any counsel or self-represented party who is raising an objection, presenting an argument or otherwise addressing the Court, shall stand while doing so, or shall not be recognized by the Court. All objections shall be made by stating the word "objection", together with up to three more words identifying the generic ground for objection, such as "hearsay", "bolstering", "leading" or "asked and answered". If it is believed that argument on an objection is necessary, any counsel or self-represented party may ask permission to approach the bench. Keep in mind that any counsel or self-represented party will be given the opportunity to make a full record of his or her position.

I. Courtroom Behavior: All remarks shall be directed to the Court. Comments shall not be made to opposing counsel or self-represented parties. **PERSONAL ATTACKS UPON PARTIES OR COUNSEL SHALL NOT BE TOLERATED AND SHALL RESULT IN THE IMPOSITION OF SANCTIONS AS DETERMINED BY THE COURT TO BE WARRANTED UNDER THE PARTICULAR CIRCUMSTANCES.** Do not attempt to "talk over" an adversary; only one person shall speak at a time.

J. Use of Exhibits: Do not show anything, including an exhibit or proposed exhibit, to a witness without first showing it to all opposing counsel and self-represented parties.

If any counsel or self-represented party believes that this procedure will compromise his or her trial strategy, he or she shall first request a pre-offer ruling outside of the presence of the jury.

K. Summation Exhibits: Any counsel or self-represented party who intends during summation to use any type of demonstrative exhibit not marked into evidence must advise the Court and all other counsel and self-represented parties of that intention at the pre-charge conference. Failure to comply with this rule shall result in an order precluding the use of such exhibit during summation.

L. Examination of Witnesses: Do not approach a witness without permission of the Court. The questioning counsel or self-represented party shall allow the witness to complete his or her answer to a question before asking another question. Do not interrupt a witness in the middle of an answer unless it is totally unresponsive, in which event a ruling from the Court shall be requested.

M. Jury Charges: In all jury trials, a complete list of requests to charge with PJI numbers shall be submitted to the Court immediately preceding the commencement of trial, with copies to be provided to all other counsel and self-represented parties. Where deviations from, or additions to, the PJI are requested, the full text of such requests must be submitted in writing, together with any supporting legal precedents. In addition such proposals shall be submitted or emailed to the Court's law secretary at bpocius@nycourts.gov. At the final charging conference, if marshaling of the evidence is required as to a particular jury charge, counsel and all self-represented parties shall provide the Court with the proposed facts which they believe should be presented to the jury.

N. Verdict Sheet: At the commencement of the trial, counsel for the parties and any self-represented parties shall jointly prepare a verdict sheet. If agreement cannot be reached, each party shall present a proposed verdict sheet which shall be served upon all other parties. The proposed verdict sheet(s) shall be submitted or emailed to the Court's law secretary at bpocius@nycourts.gov.

O. Post-Trial Submissions: Unless otherwise directed by the Court, in accordance with the schedule set by the Court at the conclusion of a bench-trial or hearing, the parties shall jointly submit a trial transcript, and each party shall prepare and submit a post-trial memorandum. Factual arguments set forth in the memorandum shall be supported by citations to the trial transcript, and legal arguments shall be supported by citations to relevant statutes or case law.

P. Check-in: At the start of each day of trial, all counsel and self-represented parties shall check in with the Part Clerk so that she will be aware of your presence.

Q. Food and Drinks: The Court will allow an attorney to bring bottled water into the Courtroom and may consume it using a cup only during the trial. No other liquid may be consumed in the Courtroom.

R. No Communication with Jurors: In order to maintain the appearance of total impartiality, once the jury has been selected no one is to communicate in any form at any time with any juror. This prohibition includes both verbal and non-verbal communication, including, without limitation, nods, shrugs and shaking the head. Do not even say "hello" or "good morning".

S. Trial Conclusion: At the conclusion of trial, counsel and any self-represented party are expected to e-file any exhibits admitted into evidence and any other document required to complete the record for purposes of any appeal. In addition, all materials used during the trial must be removed from the courtroom within 48 hours of the conclusion of trial. All materials not timely removed will be discarded.

IV. VIRTUAL PROCEEDINGS RULES

A. General: All in-person court rules apply equally to virtual court proceedings, including the requirement that all persons appear appropriately attired and prepared.

B. Recordings: No party or attorney may record any virtual court proceeding, including video, photographs and/or screenshots.

C. Third-Party Presence: No individual may be physically present in the same room as a party or witness, except for counsel.

D. Third-Party Communication: No party or witness may communicate with anyone in any manner while under oath during a virtual court proceeding.

E. Attorney-Client Communication: Prior to engaging in any private communication with his/her client during a virtual court proceeding, counsel must first announce an intention to do so.

F. Visibility: A witness and counsel must be visible on screen, while under oath during a virtual court proceeding, whether together in the same room or in separate physical locations.

G. Electronic Devices: All electronic devices that are not being used to communicate with the Court must be placed on mute.

H. Messaging: Counsel, parties and witnesses must be aware that all Teams messaging is public and permanent in that it is never erased.

I. Documents:

a. Counsel wishing to place any document into evidence during a virtual appearance must exchange the document with opposing counsel and confer prior to the virtual hearing. Stipulated exhibits must be pre-marked into evidence. If the parties cannot stipulate a document into evidence, it must be marked for identification and exchanged.

b. Any counsel desiring to show any document on the screen during a hearing must request permission from the Court in advance.

c. Pre-marked copies of all documents stipulated into evidence to be displayed at the hearing shall be forwarded to the Court prior to the hearing. Documents objected to must also be marked for identification and forwarded to the Court prior to the hearing.